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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte TIMOTHY ALLEN SHEAR

Appeal 2009-013020
Application 10/042,260
Technology Center 2100

Before: DENISE M. POTHIER, KALYAN K. DESHPANDE, and
JASON V. MORGAN, Administrative Patent Judges.

DESHPANDE, Administrative Patent Judge.

DECISION ON APPEAL

STATEMENT OF CASE¹

The Appellant seeks review under 35 U.S.C. § 134(a) of a rejection of claims 1, 2, 4-6, 8-15, 18-20, 22, 24-26, and 28-33, the only claims pending in the application on appeal. We have jurisdiction over the appeal pursuant to 35 U.S.C. § 6(b).

We AFFIRM.

The Appellant invented a method, system, and software for storing documents so that they can be indexed and reformatted into various target document types. Specification ¶¶ 0001.

An understanding of the invention can be derived from a reading of exemplary claim 1, which is reproduced below [bracketed matter and some paragraphing added]:

1. A computer implemented method of automatically storing and transmitting data in a global commerce network in an universal format, the method comprising the steps of:
 - [1] receiving a document in a first format;
 - [2] parsing said received document in said first format into a constituent node set of nodes, each node comprising an information couplet;
 - [3] semantically-tagging, indexing and storing the node set of said received document in a data store, and
 - [4] automatically triggering a propagation of a predetermined event on the node set, over the global commerce network, to a registered partner on the global commerce network, wherein the predetermined event is an update of the

¹ Our decision will make reference to the Appellant's Appeal Brief ("App. Br.," filed Feb. 6, 2007) and Reply Brief ("Reply Br.," filed Jun. 26, 2007), and the Examiner's Answer ("Ans.," mailed May 22, 2007), and Final Rejection ("Final Rej.," mailed May 23, 2006).

node set that is derived from a document previously sent by the registered partner.

REFERENCES

The Examiner relies on the following prior art:

Kirkbride	US 5,446,883	Aug. 29, 1995
Cromarty	US 6,393,442 B1	May 21, 2002
Guheen	US 6,519,571 B1	Feb. 11, 2003

IBM Technical Disclosure Bulletin, Volume 31, Issue Number 3, pp. 1-4
Aug. 1, 1988 ("IBM Bulletin")

REJECTIONS

Claims 1, 4-6, 9, 12-14, 18-20, 24-26, 29, 32, 33, and 35 stand rejected under 35 U.S.C §103(a) as being unpatentable over IBM Bulletin and Kirkbride. Ans. 3.

Claims 2, 15, and 22 stand rejected under 35 U.S.C §103(a) as being unpatentable over IBM Bulletin, Kirkbride, and Cromarty. Ans. 7.

Claims 8, 10-11, 28², and 30-31 stand rejected under 35 U.S.C §103(a) as being unpatentable over IBM Bulletin, Kirkbride, and Guheen. Ans. 8.

ISSUES

The issue of whether the Examiner erred in rejecting claims 1, 4-6, 9, 12-14, 18-20, 24-26, 29, 32, 33, and 35 under 35 U.S.C. § 103(a) as unpatentable over IBM Bulletin and Kirkbride turns on whether the

² The Examiner has listed claim 25 as unpatentable over IBM Bulletin, Kirkbride, and Guheen. Ans. 8. However, this appears to be a typographical error as the Examiner has addressed claim 28 in the body of the rejection. Ans. 9. As such, the correct listing of claims is 8, 10-11, 28, and 30-31 as unpatentable over IBM Bulletin, Kirkbride, and Guheen.

combination of IBM Bulletin and Kirkbride describe limitation [4] of claim 1.

The issue of whether the Examiner erred in rejecting claims 2, 15, and 22 under 35 U.S.C. § 103(a) as unpatentable over IBM Bulletin, Kirkbride, and Cromarty turns on whether the Appellant's arguments in support of claim 1 are persuasive.

The issue of whether the Examiner erred in rejecting claims 8, 10-11, 28, and 30-31 under 35 U.S.C. § 103(a) as unpatentable over IBM Bulletin, Kirkbride, and Guheen turns on whether the Appellant's arguments in support of claim 1 are persuasive.

FACTS PERTINENT TO THE ISSUES

The following enumerated Findings of Fact (FF) are supported by a preponderance of the evidence.

Facts Related to the Prior Art

IBM Bulletin

01. IBM Bulletin is directed to a technique for converting documents to a format suitable for filing, searching, and retrieval under a database-oriented document filing system. IBM Bulletin 1.
02. Documents are treated as a hierarchically-structured object and the document is represented by a tree with nodes and tags representing identifiable components of the document. IBM Bulletin 1. Each tag identifies a component of the document, provides certain semantics, and specifies the way to format the component. IBM Bulletin 1.

03. A document is scanned to capture tags using a parser suitable for the particular markup language during a document conversion instance. IBM Bulletin 3. If a tag is useful for capturing individual search keys, it is mapped to either an existing node or to a new node. IBM Bulletin 3. All tags are stored as data to preserve original information. IBM Bulletin 3.

Kirkbride

04. Kirkbride is directed to a method for entering user-specific problems and for heuristically retrieving documented solutions among multiple distributed computer management systems. Kirkbride 1:9-12.
05. A user logs a problem with an inquiry computer and a search for a solution document is undertaken. Kirkbride 2:3-6. The user searches a sequence of indices at various nodes in an acyclic graph. Kirkbride 3:31-32 and Fig.3. The user can select from a first level of documents provided by the system or select to search on sub-indices. Kirkbride 3:34-42. If a solution document is not found a problem report is created and posted into a document. Kirkbride 2:6-7. The problem is then solved and the user is notified electronically. Kirkbride 2:8-12.
06. A notify link associates users and incidents in a database. Kirkbride 4:29-31. The link maintains a list of all of the users interested in the solution document. Kirkbride 4:31-34. This allows for notification to the interested users when a change or update to the document is created. Kirkbride 4:31-34.

Cromarty

07. Cromarty is directed to a method for producing a plurality of documents from a common document. Cromarty 1:7-9.

Guheen

08. Guheen is directed to utilizing a user profile to customize an interface. Guheen 1:6-8.

ANALYSIS

Claims 1, 4-6, 9, 12-14, 18-20, 24-26, 29, 32, 33, and 35 rejected under 35 U.S.C §103(a) as being unpatentable over IBM Bulletin and Kirkbride

The Appellant first contends that Kirkbride fails to describe limitations [2] and [3] of claim 1. App. Br. 7. We disagree with the Appellant. The Examiner relied on IBM Bulletin to describe limitations [2] and [3] of claim 1. As such, the Appellant's contention does not persuade us of error on the part of the Examiner because the Appellant is responding to the rejection by attacking the references separately, even though the rejection is based on the combined teachings of the references. Nonobviousness cannot be established by attacking the references individually when the rejection is predicated upon a combination of prior art disclosures. See *In re Merck & Co. Inc.*, 800 F.2d 1091, 1097 (Fed. Cir. 1986).

The Appellant further contends that Kirkbride fails to describe “automatically triggering a propagation of a predetermined event on the node set...wherein the predetermined event is an update of the node set” as

required by limitation [4] of claim 1. App. Br. 8-9 and Reply Br. 2. We disagree with the Appellant. Kirkbride describes a document retrieval system where the document provides a user with a solution to a problem. FF 05. Documents are indexed by indices and sub-indices such that they can be identified in a search. FF 05. The indexing of documents in a database based on indices and sub-indices is functionally the same as parsing the documents to create a node set. Kirkbride further describes that when a solution for a user's inquiry is not found, a document report is created and added to the database. FF 05. This suggests that when a document report is added to the database, there are indices and sub-indices associated with that document such that, when a subsequent user searches, the document can be identified when corresponding to the user's search. Also, the document report is a document sent by the user or registered partner. Furthermore, when a solution to the user's inquiry is found, the document report is updated. FF 05. All users interested in that document are then notified of the update or modification. FF 05. That is, all users associated with a document are notified of an update to the document. As such, Kirkbride describes limitation [4] of claim 1.

The Appellant additionally contends that Kirkbride fails to describe that the document is previously sent by a registered "trading partner." App. Br. 9 and Reply Br. 2. We disagree with the Appellant. First, the claims only require that the document is previously sent by a "registered partner," not a registered "trading partner" as argued by the Appellant. Nonetheless, the Specification defines a trading partner to encompass "any component or device that a user may exchange commercial data or information with[,]" i.e. the end points of the Global Commerce Network. Specification ¶ 0036.

Kirkbride describes that a user submits inquiries using a computer and the inquiry is a request for a solution or information. FF 05. That is, the user uses a computer to exchange information and complete a transaction for information. Therefore, the user is both a registered and a trading partner. As such, Kirkbride describes this limitation.

The Appellant also contends that the cited prior art fails to describe “appending at least one node of said node set of said received second document to said document previously stored in said data store” and “triggering propagation of an event...by the storing or appending of at least one of said nodes of said second document stored in the data store”, as required by claims 12-13 and 32-33. App. Br. 10 and Reply Br. 2-3. We disagree with the Appellant. IBM Bulletin describes that if a tag is useful for capturing individual search keys, it is mapped to either an existing node or to a new node. FF 03. Kirkbride further describes that when a solution to a user’s inquiry is not found, a document report is created and stored. FF 05. When a solution document to the document report is created, all users with an association to the document report are notified. FF 06. That is, the document solution is a second document that is mapped to the first document report submitted by a user. The Appellant fails to provide any further rationale or evidence to distinguish the claimed invention from IBM Bulletin and Kirkbride. As such, the combination of IBM Bulletin and Kirkbride describe the additional limitations of claims 12-13 and 32-33.

Claims 2, 15, and 22 rejected under 35 U.S.C §103(a) as being unpatentable over IBM Bulletin, Kirkbride, and Cromarty

The Appellant contends that Cromarty fails to rectify the deficiencies argued in support of claim 1 supra and therefore the rejection of claims 2, 15, and 22 should be reversed for the same reasons. We disagree with the Appellant. The Appellant's arguments were not found to be persuasive supra and are not found to be persuasive here for the same reasons.

Claims 8, 10-11, 28, and 30-31 rejected under 35 U.S.C §103(a) as being unpatentable over IBM Bulletin, Kirkbride, and Guheen

The Appellant contends that Guheen fails to rectify the deficiencies argued in support of claim 1 supra and therefore the rejection of claims 8, 10-11, 28, and 30-31 should be reversed for the same reasons. We disagree with the Appellant. The Appellant's arguments were not found to be persuasive supra and are not found to be persuasive here for the same reasons.

CONCLUSIONS OF LAW

The Examiner did not err in rejecting claims 1, 4-6, 9, 12-14, 18-20, 24-26, 29, 32, 33, and 35 under 35 U.S.C. § 103(a) as unpatentable over IBM Bulletin and Kirkbride.

The Examiner did not err in rejecting claims 2, 15, and 22 under 35 U.S.C. § 103(a) as unpatentable over IBM Bulletin, Kirkbride, and Cromarty.

The Examiner did not err in rejecting claims 8, 10-11, 28, and 30-31 under 35 U.S.C. § 103(a) as unpatentable over IBM Bulletin, Kirkbride, and Guheen.

DECISION

To summarize, our decision is as follows.

- The rejection of claims 1, 4-6, 9, 12-14, 18-20, 24-26, 29, 32, 33, and 35 under 35 U.S.C. § 103(a) as unpatentable over IBM Bulletin and Kirkbride is sustained.
- The rejection of claims 2, 15, and 22 under 35 U.S.C. § 103(a) as unpatentable over IBM Bulletin, Kirkbride, and Cromarty is sustained.
- The rejection of claims 8, 10-11, 28, and 30-31 under 35 U.S.C. § 103(a) as unpatentable over IBM Bulletin, Kirkbride, and Guheen is sustained.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a) (1)(iv) (2010).

AFFIRMED

ELD